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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,138

04/16/2007

Leonid Shpigel

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12/28/2009

YOUNG & THOMPSON

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EXAMINER

CHAN, SING P

ART UNIT

PAPER NUMBER

1791

NOTIFICATION DATE

DELIVERY MODE

12/28/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,138	<b>Applicant(s)</b> SHPIGEL ET AL.	
	<b>Examiner</b> SING P. CHAN	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 38-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/16/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 38-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 38, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). The recitation to "such as a container" is unclear if the limitation is part of the claimed invention. Furthermore, the recitation on line 9, of "the container" is unclear if it is part of the claimed invention and would therefore lacking sufficient antecedent basis if "such as a container" is not intended to be part of the limitation.

4. Claim 40 recites the limitation "printing unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claim 38 is rejected under 35 U.S.C. 102(b) as being anticipated by Howard (U.S. 2,307,406).

Howard discloses an apparatus for applying a sealing strip. The apparatus includes a support a roll (24) of transparent strip or tape (12), a roll (26) of the relatively narrower strip (14), locating the narrower strip to unit in fact-to-face contact with the adhesive face (15) of the strip or tap (12) with suitable means being provided on the support at (18) for pressing the tapes into adhering contact or feeding means, as they are drawn simultaneously form the rolls. (Page 2, Col 1, lines 11-30) The adhering face of the tape (14) may be provided with indicia such as advertising or design and the indicia is visible through the transparent tape (12) (Page 1, Col 2, lines 18-32) and such composite tape is used for sealing package (Page 1, Col 2, line 64 to Page 2, Col 1, line 3).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (U.S. 2,307,406) as applied to claim 38 above, and further in view of Lephardt (EP 0,317,202).

Howard as disclosed above is silent as to a printer is provided for printing the indicia on the strip or tape (14). However, printing indicia on tape prior to laminating the tape to a sealing tape is well known and conventional as shown of example by Lephardt. Lephardt discloses a method of forming sealing strip for packaging. The method includes providing tape, providing a printable layer onto the tape substrate (80) and the printed or overcoated with desired designs, alphanumeric characters or symbols prior to laminating to film material (14). (Col 7, lines 39-56) Therefore, one of ordinary skill in the art reading Howard and Lephardt would appreciate that the teaching of Lephardt would provide a printer for printing these indicia prior to laminating the tape to the film material to form the sealing tape as taught by Howard.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a printer for printing indicia onto tape prior to laminating to film material to form sealing tape as disclosed by Lephardt in the apparatus of Howard to providing either a colored lamina or laminae as to harmonize with or contrast with the packaging. (See Lephardt, Col 2, lines 14-20)

10. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (U.S. 2,307,406) in view of Lephardt (EP 0,317,202) as applied to claim 39 above, and further in view of Lo et al (U.S. 6,648,533).

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Howard as modified above is silent as to the printer applying the information as the strip is moving through the printing unit and a receiver unit to receive alternate information for printing. However, providing a printer that print on the tape as the tape is moving through the printer and a receiver for receiving alternate printing information is well known and conventional as show for example by Lo et al. Lo et al discloses a printer for printing on tape. The printer includes a receiver for receiving a print job from a data source (14) form a variety of sources such as programmable computing devices, memory devices, keypad, keyboard input devices, application programs executing on personal computer, preprogrammed non-volatile memory, replaceable memory cartridges and replaceable memory elements (Col 9, lines 66 to Col 10, line 8), an encoder wheel (24), which reports linear movement of the tape through the printer and synchronizing circuitry to apply the print job as a function of detected linear movement of the tape past the inkjet print head (26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the printer with a receiver for receiving print jobs and a encoder wheel to detect the linear movement of the tape to synchronizing the printing to the detected movement of the tape through the printer as disclosed by Lo et al in the apparatus of Howard as modified by Lephardt to provide a printer with a greater flexibility for producing both images and text across a variety of fonts and colors. (See Lo et al, Col 4, lines 34-40)

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11. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (U.S. 2,307,406) in view of Lephardt (EP 0,317,202) and Lo et al (U.S. 6,648,533) as applied to claim 41 above, and further in view of Petteruti et al (U.S. 6,010,257).

Howard as modified above is silent as to receiver unit is a radio receiver unit. However, using either I/O connector, radio or IR link to transferring digital data between a host computer and printer is well know and conventional as shown for example by Petteruti et al. Petteruti et al discloses a portable printer is adapted for control ad to receive data to be printed from a terminal such as a host computer by either I/O connector, radio, or IR link. (Col 6, lines 22-26)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a connection for a printer to receive data either through I/O connector, radio, or IR link as disclosed by Petteruti et al in the apparatus of Howard as modified by combination of references to provide connections, which are interchangeable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SING P. CHAN whose telephone number is (571)272-1225. The examiner can normally be reached on Monday-Thursday 7:30AM-11:00AM and 12:00PM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sing P Chan/  
Acting Examiner of Art Unit 1791